

Serial No.: 10/538,323

REMARKS

The indication that claims 2 and 3 contain allowable subject matter is noted with appreciation. Claim 1 has been amended to include the limitations of claim 2 and should now be allowable. Claim 22 adds to amended claim 1 the limitations found in original claim 3 and should also be allowable.

Reconsideration is respectfully requested of the rejection of the claims under 35 USC §§102, 103 as unpatentable over Levine, Coleman or Coleman in view of Levine. Claim 8 is now directed to a method for expressing fluids above the upper floating element and then expressing the fluids between the two elements. Claim 15 is directed to structure that allows this method to be carried out. Nothing in the art of record contains any suggestion of the invention defined by these claims.

Levine teaches the use of floating markers (14, 16, 18) to separate multiple components by centrifugation. But, the fluids above or between these elements are expressed by sequential expulsion of the markers. There is no concept of expelling the fluid above the top marker, which is provided with a channel to allow subsequent expression of the fluid between markers by forcing relative motion of the markers or displacement of the fluid between the markers, as in the claimed invention.

Coleman teaches a fluid collection tube having a self-sealing float 4 or 64, which specifically prevents expression of the heavier fluids beneath the float. Thus, Coleman represents a clear teaching away from the presently claimed invention, which specifically provides for expression of the fluids between the upper and lower element.

With regard to the combination proposed by the office action, it will be appreciated that the proposed combination would not result in the invention as claimed for the reasons set forth above. Moreover, it is not seen that there would be any reason to provide the markers of Levine in the tube of Coleman given that only the light phase is dispensed by the Coleman structure. In either case, it is submitted that the present claims would not have been obvious in light of Levine and Coleman.

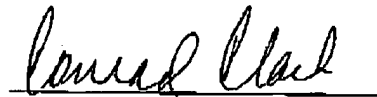
It is submitted that this application is in condition for allowance, and an early indication thereof is respectfully requested. The examiner is invited to contact the undersigned with any outstanding issues.

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All necessary extensions of time are hereby requested. Please charge any fees to deposit account 50-1088.

Respectfully submitted,

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